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J D FACTORS, LLC, a California

limited liability company

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

J D FACTORS, LLC, a California limited  
liability company,

Plaintiff,

vs.

RUSSELL TIRE COMPANY, INC., a  
Georgia corporation; HENRY PHILLIP  
RUSSELL, III, an individual; HENRY  
PHILLIP RUSSELL, IV, an individual;  
and DOES 1 through 50, inclusive,

Defendants.

CASE NO. LACV11-5891 PA (MANx)

**JUDGMENT AND PERMANENT  
INJUNCTION PURSUANT TO  
STIPULATION**

Complaint Filed: July 18, 2011

**THIS CASE CAME BY STIPULATION:**

Plaintiff J D Factors, LLC (“Plaintiff”), a California limited liability company, on the one hand, and Defendants Russell Tire Company, Inc. (“Russell Tire”), a Georgia corporation, Henry Phillip Russell III (“Hal Russell”), and Henry Phillip Russell IV (“Hank Russell”) (Russell Tire, Hal Russell and Hank Russell are collectively referred to as “Defendants”), on the other hand, having entered into a Settlement Agreement (“Settlement Agreement”) and Stipulation for Entry of Judgment and Permanent Injunction (“Stipulation for Judgment”) in the above-entitled action, and such Settlement Agreement and Stipulation for Judgment having been filed herewith and having been specifically adopted by this Court, the Court hereby enters the following Judgment and Permanent Injunction Pursuant to Stipulation:

**IT IS HEREBY ADJUDGED, ORDERED AND DECREED** that judgment (“Stipulated Judgment”) be entered for and in favor of Plaintiff and against Defendants as follows:

1. The Court shall have continuing jurisdiction to enforce the Stipulated Judgment.
2. The Settlement Agreement and Stipulation for Judgment, and the facts set forth therein, have been specifically adopted by this Court and are incorporated as if fully set forth in this Stipulated Judgment. The effect of the incorporation is that a breach of any term of the Settlement Agreement or Stipulation for Judgment shall be a violation of the Stipulated Judgment.
3. The Court specifically finds that Defendants knowingly and intentionally converted Plaintiff’s property by wrongfully diverting and collecting the proceeds from the Accounts (as defined in the Stipulation for Judgment) purchased by J D Factors.
4. The Court further specifically finds that Defendants knowingly and intentionally concealed that they had been diverting payments on the Accounts to Russell Tire. Defendants, who were under a duty to disclose the diversion of payments, concealed this material fact with the intention of inducing J D Factors to continue purchasing accounts from Russell Tire. J D Factors was justifiably induced

and, in doing so, was damaged by purchasing accounts payments on which would be paid to Russell Tire directly, and not to J D Factors. In this regard, the Court finds that Defendants' conduct was fraudulent and acted with the specific intent to injure and harm J D Factors.

5. If any proceedings are brought to enforce the Stipulated Judgment, the prevailing party shall be entitled to all post-Judgment attorneys' fees and costs.

6. Until such time Plaintiff files a Satisfaction of Judgment, Defendants and their officers, directors, agents, employees, and shareholders, and those persons in active concert or participation with any of them shall:

- a. Refrain from endorsing any negotiable instruments received as payment on the Accounts;
- b. Refrain from transferring, converting, loaning, encumbering, pledging, concealing, dissipating, spending, or otherwise disposing of any proceeds that have been received as payment on the Accounts;
- c. Refrain from destroying any documents (as defined in Federal Rule of Civil Procedure 34(a) to include writings, computer records, audio recordings, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form) reflecting payments made on the Accounts;
- d. Refrain from changing Russell Tire's business structure, or selling, leasing, transferring or otherwise disposing of all or substantially all of Russell Tire's property or assets, or consolidating or merging into or with any business entity without the express consent of Plaintiff;

7. Judgment shall be entered in favor of Plaintiff and against Defendants on Plaintiff's First Claim for Relief for Breach of Contract, Third Claim for Relief for Conversion and Fifth Claim for Relief for Fraudulent Concealment.

8. Judgment shall also be entered in favor of Plaintiff and against Hank Russell and Hal Russell on Plaintiff's Second Claim for Relief for Breach of Guaranty.

1 9. Compensatory damages and attorneys' fees and costs are to be awarded to  
2 Plaintiff and against Defendants, jointly and severally, in the sum of  
3 \$547,136.40 plus 7% per annum post-judgment interest thereon.

4 10. The Parties' right to have post-judgment interest calculated at the federal  
5 statutory rate is waived.

6 11. Defendants have the duty to inform its officers, directors, agents, employees,  
7 and shareholders, and those persons in active concert or participation with any of  
8 them, of the terms of the Stipulated Judgment.

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11 Dated: September 23, 2011



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14 Honorable Percy Anderson  
15 Judge of the United States District Court  
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**PROOF OF SERVICE**  
**1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 15303 Ventura Boulevard, Suite 1650, Sherman Oaks, California 91403.

On **September 26, 2011**, I served the foregoing document described as:

**JUDGMENT AND PERMANENT INJUNCTION PURSUANT TO  
STIPULATION**

on the interested parties in this action as follows:

☒ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sherman Oaks, California addressed as set forth below.

☒ **BY E-MAIL:** I caused the documents to be sent to the persons at the electronic notification addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Albert E. Mead, Esq.  
192 Ramona Place  
Pasadena, CA 91107  
meadlaw@earthlink.net

Raleigh Rollins, Esq.  
Alexander & Vann LLP  
411 Gordon Avenue  
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☒ **BY OVERNIGHT MAIL:** I enclosed the document in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) set forth above (or on the attached service list). I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery courier.

Judge's Copy:  
Honorable Percy Anderson  
United States District Court  
Western Division  
312 N. Spring Street, Room G-8  
Los Angeles, CA 90012

1 I declare that I am employed in the office of a member of the Bar of, or permitted  
2 to practice before, this Court at whose direction the service was made and declare under  
3 penalty of perjury under the laws of the United States of America that the above is true  
and correct.

4 Executed on **September 26, 2011** at Sherman Oaks, California.

5  
6 /s/ Kim Schwarz  
7 KIM SCHWARZ  
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